Sectt. H-27—36,006—30-10-37.

P W (1938) Department.

M SERIES.

G.O. No. 1118 M.

DATED 4.6.38.

[Despatch Abstract]

Irrigation Water Charges

Non domestic purpose

Bellary Rd cl

Reconsideration

previous order

R. Issued

In reply, please quote number, date and short title.*

13 SEP 1937 DEPARTMENT

Received _____ *Registered* R 4265 F

From (Name) Janab Gulam Nabi Sahib Bahadur, B.A.,

(Designation) Commissioner, Bellary Municipality,

Post Box _____, (Station) BELLARY.

Telegraphic Address _____

To

The Secretary to Government,
Revenue Department, M A D R A S.

Through M. Rangiah Naidu Garu, B.A.B.L., Chairman M.C., BELLARY.

SECRETARIAT TO GOVT. MADRAS. 20 SEP 1937 PUBLIC DEPARTMENT

W.D. no. 4 dated 18.9.37

No. 9161/37, dated 13-9-1937

Sir,

Enclosures 2.

G.O. No. 1297-1/15-34

Memorandum.

Spare Copies _____

Sub:- Assessment - Water rate - supply for non domestic purposes - Exemption requested.

*****

I submit herewith a copy of the Memorandum submitted to the Honourable Minister for Revenue when he visited this place on 12-8-37 and request that in the circumstances mentioned in the Memorandum the Government will be pleased to exempt this municipality from the operation of G.O.No. 1297 Irrigation dated 15-6-34.

In the more or less parallel case of Bezwada no such charge is made presumably on the ground that the wells there are sunk not in the bed of the River but in lanka lands adjoining the river bed vide G.O. No. 2045 Public Works (Irrigation) dated 31-8-36. Whether the wells are sunk in the bed of the River or in lanka lands adjoining the river margin, there can be no doubt that in both the cases the ultimate source of supply is sub-soil river springs. Even if this contention is wrong, there is a strong case for at least exempting this municipality from the operation of G.O. No. 1298 Irrigation dated 15-6-34 on account of the unsatisfactory financial position of this municipality in a famine tract.

Forwarded
Narayana Rao
Chairman 14/9/37

Commissioner. 14/9/37

2

MEMORANDUM.

Bellary gets its protected water supply from infiltration wells dug in the Hagari river at a distance of ten miles from the town. Water from these wells is pumped to the reservoir in the town and the water is lifted from the wells to a height of 215 feet. The water supply scheme is a non-house service connection scheme and so the only income the Municipal Council gets from the heavy capital outlay of Rs. 10.78 lakhs, is, the trifling sum of Rs. 7500/- collected annually for supply of water to the railways. The annual recurring expenditure on water supply is Rs. 49,166/-.

Prior to 1935, the Revenue Department was not claiming any share from the amount collected from the Railway Department. But after the issue of G.O. No. 1297 Irrigation dated 15-6-34 the Collector is insisting on the Municipality paying annually as water-rate, a sum of Rs 2500/- to the Government, representing 1/3 of the amount collected from the railways. In the above G.O. it is stated that no charge should be made when the source neither belongs to Government, nor is situated on Government land though it may be supplied from a Government source by percolation. This distinction is very subtle. The land on which the pumping station etc., stands is under alienation to the Municipality, and the water in the wells is sub-soil percolation water only and so is perhaps not entitled to be charged for by the Revenue Department, under the above G.O. Whatever the merits of this contention, the financial condition of this Municipality in a famine tract, the heavy capital outlay on the water supply scheme, and the enourmous recurring maintenance expenditure, richly entitle the Municipality for relief by way of remission of the charge for water made by the Revenue Department.

Sd/ Gulam Nabi.

Commissioner.

TRUE COPY

KSL/13-9.

Commissioner.

3

P.W.D

Water-charge - Industrial purpose - Bellary Municipality - Exemption

CNO 3rd... From the Comm^r, Bellary M.C, No. D. 916/37-2 dt 13.7.37.

The facts stated in the Memorandum on p 2 cf were already before the Govt when the orders in G.O No. 2076 S-Pub(I) dt 31.8.36 were issued. The Contention that the water in the wells is sub-soil percolation water only & that the principle installation is on land alienated to the Municipality has no bearing on the question as the exemption in the case of sources situated on non-Govt land & not belonging to Govt is mainly because of the (legal) difficulty to prove that the percolation is from a Govt source. In the present case, the Municipality is not entitled to exemption under the terms of the G.O. merely because percolation water is not chargeable. Such is the case only when the source of supply is on land not belonging to Govt & does not itself belong to Govt. Further, there is no doubt in this case that percolation is from a Govt source. The only ground on which exemption may be granted is that the Municipality cannot afford to pay the charge as its revenue by the sale of water is very little, and is calg all

proportion to the annual maintenance charges. The latter is nearly seven times the former. But, as observed by the Ex Engr in his letter at p7 of Fo No 20145 PW(I) d 30.8.36, there is no reason why the Municipality should be exempted on this account. Probably others are in the same position, & it will be an inconvenient precedent to depart from the principle - apart from the loss of Rs 2,500 per annum to Govt. Exemption was refused to Coimbatore, Erode, Tanjore, Coonoor & Vellore Municipalities in the past. Coimbatore has protested twice & the Govt refused to reconsider the matter. It has given a suit notice disclaiming liability to pay on certain special grounds & the Collr has been asked to take steps to defend the suit if filed. Hon (B. Th.) has recently remarked in connection with the Rajah Mundry case that he did not think it fair to charge the Municipality as it derives no income from the use for non-domestic purposes. The matter is being examined further and the file has yet to go to the Prime Minister.

In the circs it is for orders whether the case as regards Bellary dealt with in this file will be re-opened. If so, it might be distinctly as a matter of grace without prejudice to the right of Govt to levy the charge later as if considered

7,500 / 49,166. (See note on p2 ref 7)

(Z)

I.I. Papers not put up

File not put up. (This not also clear what the charge for non-domestic purposes is meant by. Hon orders - Service cases) exempting from the supply of non-domestic supply is to be charged - see p 5 ante (bottom)

Quite so

WS
2/10

necessary

The file may be sent to Rev, LAD, CVPH and Fin for remarks. LAD may be requested to examine whether, on the whole, the Municipality can afford to pay the charges (amounting to Rs 2,500 per annum) without serious ~~strain~~ inconvenience to itself; ~~and if so whether they (the LA Dept) would be prepared to give a grant in aid to the Municipality~~

Sd/ Rode
29.9.37

1/10-/37

There seems to be no case for exemption

LM
2/10.

Rev.
L.A.
C.V.P.H.
Fin

Revenue Dept.

To. Under Secretary,

This dept. may agree with the P.W. Secretary. The file may be passed on to Land Revenue.

Sd 6/10
for Secy
7/X

P. T. O

8-OCT 1937
LOCAL ADMINISTRATION DEPT.

P.W.D. 3051/D/37-1
2/X/37

+7225 GOVT.
8-OCT 1937

BK
8/10 27942

Revenue 47225/37-1

Sd/ 5.10.37

7.10.37

L-AD

~~A Depl.~~ A

The Bellary Ml. C. will be able to pay the water charge of Rs 2,500 per annum without much difficulty. With these remarks the file may be passed on to the E & PH Dept.

vide remarks noted at (G) (removed in A Dept.)

14 DEC 1937

Dy 11.12.37
Gr 11.12.37

T&R 12.12.37

Dy E&PH wb

Sec 13/12

E & P.H

L.A.U.O. No. 27942-1-B2
dt/14-12-'37

E & U. & Depts

The file may be perused and passed on to Secretariat wb. The whole question of the levy of water charges from Mul. Council for water taken from Govt sources is to be placed before the Cabinet (X)

(X) In connection with Revenue Boundary case file in P.W. ↙ Secretariat - Note on page

Con 21.12.37
PM 21/12.

SIA 22.12.37 S

Con 23/1.38

Sec

No. No. 27942-1 E2 23.12.37

3/1

29/12 sw

Finance (Accts) Dept.

Please see the letter from the Commissioner, Bellary Municipality in the C.1

P. W. D. Secretary considers that there is no case for exempting the municipality from the payment of Rs 2500 being ⅓ of the amount collected for supply of water. With reference to a representation from the Rajahmundry Municipality to the railways. / the policy to be followed by the Govt. in the matter of levy of water charges from municipal councils for water taken from the Govt. sources is under separate consideration and the subject will be placed before the Cabinet. The decision of the Cabinet may be applied to the present case also.

(X) Not to be sent for note

6.1.38

D.W.D.

5/1/38 6.1.38.

6.1.38

D.W.D. 7.1.38

PW

Fin no 296 Aud 7/1/38.

PWD

Hon (PW) has since ordered that the matter refd to above need not be placed before the Cabinet, that each case may be decided on its merits. With refce to the Note of the Hon P.M., it is proposed to issue orders exempting the Rajahmundry Municipality from the payment of charge for the water supplied for domestic purposes only. The file with a

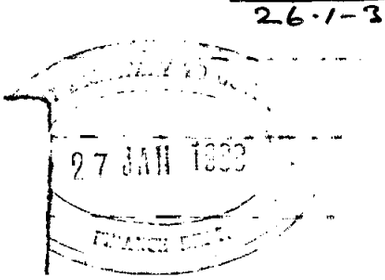
ASS. SECRETARY TO GOVT. D/21 8 JAN 1938 PUBLIC WORKS DEPT.

draft will be sent to Fin Secretary through Rev Dept. This case (Bellary) has therefore to be decided on its merits. Fin may be requested to offer their remarks on it

25738-V01

26/1/38

P.W.D. U.O. 3051-D/37-2
26-1-38



Finance (Accounts)

Please see the previous Finance note on page 5 ante and that of the P.W.D. above.

2. It has since been decided that the general question regarding the levy of water charges from Municipal Councils need not be placed before the Cabinet and that each case may be decided on its merits.

Please see P.W.D. note on page 5-a ante

In view of the Bellary Municipality's capacity to pay the water charge as stated by L.A.D and also in ivew of the Govt. s decisions disallowing the concession in the case of other Municipalities referred to at K of the P.W.D. note on page 2 ante, it does not appear that an exception need be made in the case of the Bellary Municipality. But P.W.D. have stated that the Hon. P.M. has agreed to the waiver of the water charge from the Rajahmundry Municipalit for the water supplied for domestic purposes. The exemption asked for by the Bellary Municipality is in respect of water supplied for non-domestic

page 4 ante

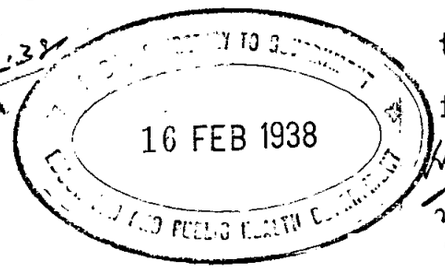
page 5 ante

P 2 CF

purposes. It is not known on what grounds ~~was~~ the exemption was granted to the Rajahmundry Municipality and whether it was in spite of its ~~capacity~~ being able to pay the charge. As it is necessary to know about these facts more fully before Finance can express their view on this case, P.W.D. may be requested to send this file again to Finance along with the file relating to the Rajahmundry Municipality.

We may now consider the case of Bellary, on its own merits

Dy 3.2.38



Dy 2.2.38.

2<B 2.2.38

The question in this case is as regards the Supply of water to the Bellary Municipal Council for non-domestic purposes, & we Depn may agree with the view previously expressed by the P.W.D. that there seems to be no case for exemption

See note on P 2-3 ante

DWD. 4.2.38

Dy 3.2.38

DWD 4.2.38

PW

DWD

Addl Dy

W 4/2

Fin no 3238 Audy 4/2/38

The file may be sent to E+PH for remarks with ref to their note on p4 ante. ~~After perusal this case may be returned~~ before circulation to Hon PW + PH.

Dy 15238

15/2/38

Edu + PH.

P.W.D.20.305/D/37-3
15-2-38.
903

10

E & G. H. Depts

The dept may also agree with the view expressed by the G.W. Secy in para 2 of his note supplies for non-Domestic purposes and the Circuit is also wrong. The file may be returned to G.W. Secy

Sd
23.2.38

SRM
24/2/38

S.
25/2/38

P.W.D.

ASST. SECRETARY TO GOVT. D 1343 1-MAR 1938 PUBLIC WORKS DEPT.

No. 7003-1 E2
26.2.38.

11

Summarised 7.7.40

P.W.D.

Charges for water drawn by the Bellary Municipality from wells sunk in the bed of the Hagari river and supplied by it for non-domestic purposes - Request for exemption.

It is laid down inter alia in para 6 of B.S.O. No.11-A that if a local body getting its water supply free of charge from a Govt. source is found at any time to be selling water for non-domestic purposes, it should pay to the Govt. one third of the total amount realised by it every year from such sales. These provisions in the B.S.O. follow the orders issued in G.O.No.1297-I d/15-6-34. This order applies only to cases where the source from which the water is taken belongs to Govt. No charge is made even in cases where a private source is benefited by percolation from a Govt. source. The raison d'etre for this G.O. is that as no charge is at present levied by the Govt. for water taken from Govt. sources by certain Municipal Councils for town supply, though these Councils derive income from aerated water companies and other industrial or semi-industrial concerns by charging for the water supplied to them, it is only fair that in such cases a charge should be made by Govt. for the water supplied for other than domestic purposes.

2. Bellary town gets its protected water supply from infiltration wells dug in the Hagari river at a distance of ten miles from the town. Water from these wells is pumped to the reservoir in the town and the

water is lifted from the wells to a height of 215 feet. The water supply scheme is a non-house service connection scheme constructed at a cost of Rs.10.78 lakhs, and the only income that the Municipality gets is the sum of Rs.7,500 paid annually by the Railway company for the water supplied to it. The annual recurring expenditure on the water supply scheme is, according to the Municipality Rs.49,166.

3. With reference to the orders in G.O.1297-I d/15-6-34 mentioned in para 1 above, a sum of Rs.2,500 being one third of the income realised by the sale of water to the Ry. Company was demanded from the Municipality in May 1935. The Municipality contended that the wells from which it obtained water were not at all benefited by percolation from the Hagari river as there was seldom water in the river except during floods, and that in fact a good amount of money had to be spent (on the suggestion of the Sanitary Engr.) to protect the water in the wells from being contaminated by the water in the Hagari river during floods. The case of Bezwada Municipality where the water is drawn from wells sunk in the bed of the river and yet no charge is made, was also referred to. The Municipality requested exemption from payment of the charge on these grounds, and also on the grounds of financial inability.

The C.E. to whom the matter was referred, stated that the contention that the Hagari water does not percolate into the wells was wrong, and that the infiltration wells located in the bed of the river drew their supply from the storage in the sandy bed of the river. He pointed out that the Bezwada case was on a different footing as the wells were sunk on lanka land belonging to the Municipality some distance away from

the margin of the river and at a place where springs from the hill slope were also met with. The Govt. thereupon passed orders in Aug. 1936 stating that they saw no reason to exempt the Municipality from the payment of the charge.

4. In its letter of Sep. 1937 in the c.f. the Municipality has asked for a reconsideration of the orders on the ground that the land on which the pumping station stands is alienated to the Municipality and the water in the wells is sub-soil percolation water only. Stress was laid on its financial positio by the municipality in the following words:- "The financial condition of this Municipality in a famine tract, the heavy capital outlay on the water supply scheme, and the enormous recurring maintenance expenditure, richly entitle the Municipality for relief by way of remission of the charge for water." The views of this dept. on the matter are contained in the note extracted below:-

"The contention that the water in the wells is sub soil percolation water only and that the pumping installation is on land alienated to the Municipality has no bearing on the question as the exemption in the case of sources situated on non-Govt. land and no belonging to Govt. is mainly because of the (legal) difficulty to prove that the percolation is from a Govt. source. In the present case, the Municipality is not entitled to exemption under the terms of the G.O. merely because percolation water is not chargeable. Such is the case only when the source of supply is on land not belonging to Govt. and does not itself belong to Govt. Further, there is no doubt in this case that percolation is from a Govt. source.

The only ground on which exemption may be granted

is that the municipality cannot afford to pay the charge as its revenue by the sale of water is very little, and is out of all proportion to the annual maintenance charges. The latter is nearly seven times the former. But, as observed by the Executive Engineer in his letter at page 7 of G.O.No.2045 P.W.(I) d/31-8-36 there is no reason why the municipality should be exempted on this account. Probably others are in the same position and it will be an inconvenient precedent to depart from the principle - apart from the loss of Rs.2,500 per annum to Govt. Exemption was refused to Coimbatore, Erode, Tanjore, Coonoor and Vellore municipalities in the past."

Recently the Rajahmundry Municipal Council also was required to pay this charge for nondomestic supply through domestic supply was exempted. The Rev. P.H. and Fin. depts. have agreed with this department that there is no case for exemption, and the L.A.dept. have stated, after an examination of the financial position that the Municipal council will be able to pay the charge of Rs.2500 per annum without much difficulty.

5. In the above circumstances, orders of Govt. are required whether the exemption asked for will be given. If so it may be distinctly as a matter of grace without prejudice to the right of Govt. to levy the charge later on if considered necessary. There is, however, no precedent so far, where exemption was granted even under this condition.

PwD

The case may now be circulated to Hons Pr. Rev. PH & Hon PM for orders. A self contained note is subd below ×

pp 11-14 ante

Dlp
16.3.38

Pr
19/3/38

pp 11-14 ante The note below is for perusal & orders

Dlp
19/3

(2) HM (Pw) No case for exemption ~~not~~ re consideration of G.O. 2045-d/31-8-36 Pr. 23

HM (Rev) JP 19/4/38

Cur 23/3
R 25/5

HM (PH). The application for exemption need not be reconsidered.
Hon Pr
PH 3/5/38

We may make it clear in the order to be issued that no concession is permissible for use for non-domestic purposes.

C.R 24.5.38

A draft order is subi

2. Hon PM's remarks above seem to indicate that in no case should the charge for water for non domestic purposes ~~should be~~ waive

apparently because such supply is ~~re~~ unconnected with the normal Municipal administration" – See pl note (top) to Govt. 1297 I of 1563 4. His remarks will be borne in mind in dealing with similar cases in future.

Cf also Sec 132 of the DM Act where the words "the Executive Authority may also in exceptional circumstances" (N) water from any supply other than Municipal connection".

28538

(DM Act with Secy)

[Govt 1118 PW(I)D 4.6.38]

p17 ante

17

10/4/6

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ...		
When copied ..		
When examined..		
When signed ..		
When despatched.		

SUBJECT:— PW & (I)

Irrigation - Water charge — Non domestic purposes - Bellary Mkt-cl - Reconsideration of previous orders - Refused.

READ AGAIN Govt No 2045 PW (I) dated 31-8-1936 (I)

" " " " 19

READ *ALSO*:—

No. 3051 D 37 From the Commr Bellary Mkt, No. D 9161/37, dated 13-9-1937.

" " " " 19

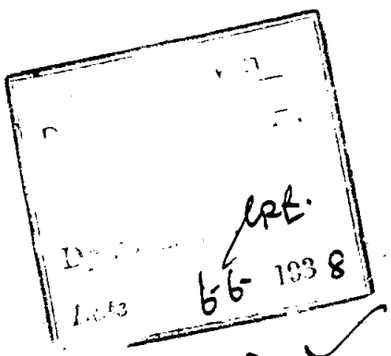
" " " " 19

Order ~~Resolution~~ Ms. No. 1118, dated 4-6-1938

The Govt regret that they are unable to reconsider their orders in Govt No 2045 PW (I) of 31-8-36. The supply of water by Mkt. Cls for non domestic purposes is not obligatory, and as payment is received by the Councils for such supply no concession in regard to the charge payable to the Govt is permissible.

(I)

H Pm's remarks on p 9 ng



28/5/38

28/5/38

31

1/6

Do Mr Commr Bellary Mkt, this the CMC

Copy to the CE (I) Board of Rev

18

Memorandum from the Bellary

Exemption from payment of water rate to Government.

2. Bellary gets its protected water supply from infilteration wells dug in the Hagari and then pumped to a reservoir in the town 215 ' high. The water supply scheme is a non-house service one and yet it has cost the Municipality 10.78 lakhs. In Bellary, the Head Quarters of one of the famine stricken districts, water-tax is levied at 6½% which is felt high. The annual recurring expenditure on water supply is about Rs.50,000 in round figures.

The Municipality has been supplying water to the railway ever since the introduction of the scheme and from 1935 it is claimed by the Government that the one-third of the charges received from the railway should be credited to Government on the ground that the supply is for non-domestic purpose. The wells at the source are on the land alienated to the Municipality and the claim of the Government is based on the a subtle and techinical ground that the springs are in the river bed, belong to Government. We submit that it is a farfetched interpretation. When the instance of Bezwada where no charge is made is cited, it is brushed aside on the ground that the wells there receive their springs not only from the river on one side but from the hill springs on the other side: After all Bellary is in a famine stricken area and this contribution is a mere flea-bite to the Provincial Government but this payment is felt as great hardship by the Municipality. The council earnestly requests that the memorable visit of the Preminer to this out of the way place may be associated with the remission of the water-rate.

xx xx xx

6. Tungabhadra project.- Finally we request you to expedite the Tungabhadra project which is the only scheme which can successfully prevent the recurrence of famine in this district. Though this is not a subject with which the Municipal Council is directly concerned we are compelled to invite the attention of the Government to the urgent necessity of its fruition. After all the prosperity of a town is dependent on the surrounding villages and as long as the rural area are famine stricken the Municipal Councils in these areas cannot hope to be financially strong or prosperous.

ASST SECRETARY TO GOVT
D
5-AUG 1938
3736
PUBLIC WORKS DEPARTMENT

20

Education & P.H. Department.

Memorandum presented to the Hon'ble Prime Minister by the Bellary Municipal Council.

xx xx xx

2. Copies of paras 2 and 6 of the Memorandum may be sent to P.W.D. and of para 5 to L.A. for necessary action. Necessary extracts will be sent to them after approval.

S.R.K. 2-8-38.

To the Public Workd Dept.

Local Administration Dept.

E & P.H. u.o. No. 30452-1 E1 P.H.

F o r w a r d e d.

(By Order)

Superintendent.

MVP

PWD

Para 2, p1 cf :- charge for the water supplied by the Municipality for non-domestic purposes

Please see the note at pp11-14, the remarks of Hons on p15 & the order on p17 (G.O.No 1118 E dt 4.6.38) for orders if the matter will be reconsidered in view of A on p1 cf

1/2 cf Para 6 Tungabhadra Project

No special action is necessary. The Municipality pays 1/3 of what it

10838

21

becomes from the Rep. there is no room for complaint
two principal for granting rpl exemption

HM (Pw) 13/6

The papers may be lodged.

Extract of para 4 from the Memorandum Presented to the Hon'ble the Minister for Local Administration, on 27th October 1938 by the Members of the Municipal Council, Bellary.

x x x x

4. Before leaving the subject of water supply, the Council begs to urge on the attention of Government the equity and justice of reconsidering the orders of Government in charging the municipality for the water supplied to the Railway locomotives. The water is drawn from the wells sunk in the land alienated in favour of the municipality and the Government have no concern at any stage. The claim is based on a subtle and far-fetched argument that the springs in the wells are fed by the springs in the Hagari River. As the water is not supplied from any system of irrigation or project executed by Government and as they have not incurred any expenditure on this account and as the entire scheme was developed by the Municipality, the Council prays that the Government do consider the orders passed and relieve the municipality of the burden of paying the water rate on the quantity supplied to the Railway.

Edn. & P.H. Departmen

Para 4 of the memo.

An extract of this para may be sent to P.W. who are concerned with the subject.

S.R.K.
13/3.

To the Public Works Department.

(True copy)

K.S. Krishnaswami
Superintendent

1250.

Please see the extract on p1 ante

2. The matter has been fully examined before there are no new facts. Please see the note on pp 11-16 & the order at p17 of Govt no 1118 I & (u) 4.6.38. Subsequently, the matter was reopened p18(u) in a memorandum to the Premier & it was considered that there was no justification for granting special exemption to the Bellary rule p21(u). In the circs no further action seems called for now. These papers may be filed with Govt 1118 I & 2.6.38. Hm (+H) need not be troubled

× Contain the memo of proceedings

12829 12/6

12/6